IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 11717 of 2001

For Approval and Signature:

HON'BLE MR.JUSTICE AKIL KURESHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GSRTC

Versus

MAHMAD FAROOK DABBAVALA

Appearance:

1. Special Civil Application No. 11717 of 2001

MR HARDIK C RAWAL for Petitioner No. 1

Party-in-person for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE AKIL KURESHI

Date of decision: 01/10/2004

ORAL JUDGEMENT

This petition has been filed by the Gujarat State Road Transport Corporation challenging the order dated 23.11.01 passed by the Labour Court, Amreli in Recovery

Application No.1 of 2001, filed by the respondent herein. The order of recovery was made on the basis that the action of the petitioner in dismissing the respondent from service was not approved by the Industrial Tribunal and the approval application filed by the petitioner was rejected.

2. Both the sides agree that the order of the Industrial Tribunal by which the approval application was rejected was challenged by the petitioner before this Court in Special Civil Application No.10011 of 1999 and the said Special Civil Application has been allowed by the order dated 8th July 2004 and the matter is remanded to the Industrial Tribunal for fresh consideration of the approval application. In conclusion, the basis on which the recovery order was granted to the respondent does not survive at least at this stage. The same is, therefore, required to be quashed and set aside. On this ground alone, the petition succeeds. The impugned order dated 23.11.2001 is quashed and set-aside. Rule is made absolute accordingly with no order as to costs.

(Akil Kureshi, J.)

(vjn)